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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,842	01/16/2004	Thomas Nikolaus	04-134	6965

34704 7590 06/16/2005
BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,842	Applicant(s) NIKOLAUS, THOMAS	
	Examiner F. Daniel Lopez	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claims 23-39 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23 line 2-4 "at least one rotor element...having an output load, in particular a generator, which is connected directly or indirectly to the rotor element" is confusing, since further on in the claim it is clear that the generator is indirectly connected to the rotor. Suggest that lines 2-4 "having...element," be deleted. In claim 3 line 6-7, and throughout the claims "two or more generators and/or output loads" is confusing for a number of reasons, not the least of which is that it appears that the generators are the output loads, so have the output loads and the generators appears redundant. In claim 3 line 8-9 and throughout the claims "the at least one generator and or output load", in addition to the problems stated above, is confusing, since previously two or more generators and/or output loads are claimed. In claim 3 line 9 "is subdivided into different power levels" is confusing, since it appears from the specification, that the different power levels are formed by the different generators or output loads. In claim 3 line 9-10 "can be distributed to the at least one generator and or output load", in addition to the problems stated above, are confusing, since it is unclear what is being distributed.

Throughout the claims the use of "in particular..." (e.g. claim 23 line 3) is confusing as to the scope of the claim and should be deleted.

Claim 24/23, 25/24/23, 27, 28, 29/.../23, and are confusing, since they repeat only limitations that are claimed in claims they depend from.

In claim 25 line 5 "the pylon attachment" has no antecedent basis.

In claim 30 line 2 "the hydraulic pump" is confusing, since there were previously claimed two or more pumps.

In claim 31, the use of and/or in lines 2 and 4 is confusing.

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In claim 34 line 3 "a pylon attachment" is confusing, since it was previously claimed in claim 25.

In claim 38 line 2 "the output load is... a pump" is confusing, since the output load appears to be a generator (see e.g. claim 30).

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22 and 23, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being anticipated by Parkins (see discussion below).

Claim 23, inasmuch as it is definite, is rejected under 35 U.S.C. § 102(b) as being anticipated by Cros (see discussion below).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

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Claims 23-39, inasmuch as they are definite, are rejected under 35 U.S.C. § 103 as being unpatentable over Parkins in view of Cros. Parkins discloses a wind power system comprising two or more wind machines (e.g. column 3 line 19-23), each driving a plurality of pumps (22), which are controlled as a function of power output levels (based on rotor speed, see e.g. fig 9); which drives a single generator (50); with a pressure equalization container (46) is between the pump and the generator; wherein rotor elements (11) are attached to a pylon attachment (14), which is rotatably attached (e.g. column 4 line 5-10) to a pylon (12); but does not disclose that the generator includes two or more generators, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; or that there is a controllable restriction element or controllable valve in a line for open or closed loop control or braking.

Cros teaches, for a wind power system comprising two or more wind machines (e.g. 1a, 1b, 1c)), each driving a pump (3aa, 3b, 3c), which drives a generator (e.g. 8a); that the generator includes two or more generators (8a, 8b), which are subdivided into different power levels (e.g. column 13 line 52-56), on a power output specific bases, via a control device (268, fig 9), depending on power emitted by the wind machines; and that there is a controllable valve (12) in a line to another output device (9), for the purpose of controlling the output power.

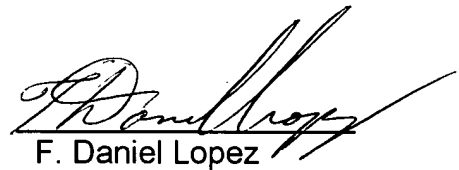
Since Parkins and Cros are both from the same field of endeavor, the purpose disclosed by Cros would have been recognized in the pertinent art of Parkins. It would have been obvious at the time the invention was made to one having ordinary skill in the art to include two or more generators in the wind power system of Parkins, which are subdivided into different power levels, on a power output specific bases, via a control device, depending on power emitted by the wind machines; and to include a controllable valve in a line, to another output device, as taught by Cros, for the purpose of controlling the output power.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9306. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

A handwritten signature in black ink, appearing to read "F. Daniel Lopez", with a long horizontal flourish extending to the right.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
June 13, 2005